



**Consumers for
AFFORDABLE
Health Care
COALITION**

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*Advocating the right to health care
for every man, woman and child.*

August 9, 2007

VIA Hand Delivery

Eric A. Cioppa, Acting Superintendent of Insurance
Attn: Vanessa J. Leon
Docket No. INS 07-900
Maine Bureau of Insurance
34 State House Station
Gardiner, ME 04333-0034

IN RE: REVIEW OF AGGREGATE MEASURABLE COST SAVINGS DETERMINED BY DIRIGO HEALTH FOR
THE THIRD ASSESSMENT YEAR (2008)

Dear Superintendent Cioppa:

Please find enclosed for filing in the above captioned matter, two (2) copies of the following document from Consumers for Affordable Health Care (CAHC):

SUBMITTED BY: Joseph P. Ditré
Legal Counsel to Consumers for Affordable Health Care

DATE: Thursday, August 09, 2007

DOCUMENT TITLE: Intervenor Request

DOCUMENT TYPE: Request

CONFIDENTIAL: No

Thank you for your attention in this matter.

Respectfully submitted,

/s/ Joseph P. Ditré

Joseph P. Ditré, Esq.
Bar Number 3719

Counsel to:

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Pc: Service List (by US Mail and electronically)

**STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE**

IN RE: REVIEW OF AGGREGATE)	Consumers for Affordable
MEASURABLE COST SAVINGS)	Health Care
DETERMINED BY DIRIGO)	
HEALTH FOR THE THIRD)	Application to Intervene
ASSESSMENT YEAR)	
)	
Docket No. INS-07-900)	

Now comes Consumers for Affordable Health Care Coalition (“CAHC”), by and through its attorneys, with its application to intervene as a matter of right, pursuant to 5 M.R.S.A. §9054(1) and Bureau of Insurance Rule 350, in the above captioned matter on behalf of its members for the following reasons:

- [1] CAHC is a Maine non-profit corporation located at 39 Green Street in Augusta, Maine. CAHC is Maine’s largest consumer health coalition whose mission is to advocate for affordable, quality health care for every man, woman and child.
- [2] CAHC’s membership includes individual members as well as 37 businesses and organizations.¹ Its collective membership represents the health care and coverage interests of over 200,000 Maine citizens, some of whom are DirigoChoice enrollees who will be affected by the outcome of this proceeding and others of whom are ratepayers of health plans that have been, or are likely to be, assessed for recoverable savings. CAHC’s motion to intervene promotes an efficient proceeding in that it consolidates into one motion what could have been several organizational requests to represent their members.
- [3] CAHC attests that its members, who are DirigoChoice enrollees or are covered by health plans likely to be assessed for recoverable savings, will be directly and substantially affected by the outcome of the proceeding and that members rely on CAHC to represent their interests in such proceedings.²
- [4] CAHC has standing to represent interests of its members. The U.S. Supreme Court articulated a three-part test for courts to apply in deciding whether to allow an organization to bring suit on behalf of its members. *Hunt v. Washington Apple Advertising Commission*, 432 U.S. 333, at 343, 97 S. Ct. at 2441 (1977); *Risinger et al. v. Concannon*, 117 F. Supp. 2d 61 (D. ME 2000). First, the organization must demonstrate that “its members would otherwise have standing to sue in their own right.” *Id.* Second, the interests that the organization “seeks to protect” must be “germane to the organization’s purpose.” *Id.* Third,

¹ The organization and business members, include consumer organizations such as the Maine Council of Senior Citizens, labor unions and organizations including the Maine AFL-CIO, small businesses, faith-based organizations including the Maine Council of Churches and the Roman Catholic Diocese of Portland, and health care provider associations such as the National Alliance for the Mentally Ill/Maine, the Maine State Nurses Association, the Maine Chapter of the National Association of Social Workers, and many others.

² CAHC is currently representing its members who are DirigoChoice enrollees in an administrative appeal to the Kennebec County Superior Court (Docket No. AP-07-18) which is an appeal of the Superintendent’s approval of Anthem Health Plans of Maine’s rate increase for the DirigoChoice individual product. Affidavits of individual CAHC members who are DirigoChoice enrollees that rely on CAHC to represent their interests were filed in that case, still stand, and are further support for CAHC’s application to intervene in the instant proceeding as of right.

“neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Id.* CAHC’s application meets all three of these requirements.

- [5] First, CAHC members meet the “direct and substantial” requirement to intervene as of right on their own behalf as ratepayers of DirigoChoice or assessed health plans. Maine courts and administrative agencies have long held that ratepayers are entitled to intervene in rate cases as of right. *Central Maine Power v. Public Utilities Commission*, 405 A.2d 153, at 163 (1979) citing *Gifford v. Central Maine Power*, 217 A.2d 200 (1966). Determination of the Aggregate Measurable Cost Savings (“AMCS”), and the ensuing Savings Offset Payment (“SOP”), is analogous to rate cases because the SOP partially funds subsidies for DirigoChoice enrollees and directly affects the rates they pay and their health insurance coverage and may affect the rates that other health plan enrollees pay.
- [6] Second, ensuring that these member consumers, and others like them, can obtain and retain access to affordable, quality and accessible health care coverage is a key part of CAHC’s organizational mission and purpose.
- [7] Finally, there is nothing about the claims or relief that requires the participation of individual members in the proceeding. Indeed, allowing CAHC to represent its membership as a whole is more efficient than each of them representing their own individual interests independently.
- [8] CAHC has substantial experience in adjudicatory matters of this nature. CAHC was a party as of right in the determination of AMCS before the Dirigo Health Agency’s Board of Directors in the second assessment year and this year, the Bureau’s review of the AMCS in years one and two,³ and was a party in the litigation that ensued from the first SOP proceeding.

For all of the above reasons, CAHC requests that its application to intervene as a matter of right be GRANTED.

Dated: Thursday, August 09, 2007

Respectfully submitted,

Joseph P. Ditré, Esq., Bar #3719
Executive Director

Mia S. Poliquin Pross, J.D.
Legal Analyst

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³ Docket Numbers INS-05-700 and INS-06-900.

CERTIFICATE OF SERVICE

Docket No. INS-07-900

I, Joseph P. Ditré, counsel for Consumers for Affordable Health Care, hereby certify that on this date I caused to be served via U.S. Mail and electronic mail, as noted below, a copy of the foregoing **“Consumers for Affordable Health Care Intervenor Request”** in the REVIEW OF AGGREGATE MEASURABLE COST SAVINGS DETERMINED BY DIRIGO HEALTH FOR THE THIRD ASSESSMENT YEAR (2008) as follows:

Two (2) hard copies via hand delivery and one identical electronic copy addressed to:

Eric A. Cioppa, Acting Superintendent of Insurance
Attn: Vanessa Leon, Docket No. INS-07-900
Bureau of Insurance
#34 State House Station
Augusta, Maine 04333-0034
Email address: Vanessa.J.Leon@maine.gov

One (1) hard copy via U.S. Mail and one identical electronic copy addressed to:

Thomas C. Sturtevant, Jr.
Assistant Attorney General
#6 State House Station
Augusta, Maine 04333-0006
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One (1) hard copy via U.S. Mail and one identical electronic copy addressed to:

Compass Health Analytics, Inc.
Attn: John Kelly
477 Congress Street, 7th Floor
Portland, Maine 04101
Email address: jck@compass-inc.com

One (1) hard copy via U.S. Mail and one identical electronic copy addressed to each of the following parties to the proceeding:

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Dated: August 9, 2007

Respectfully submitted,

/s/ Joseph P. Ditre
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